



General Assembly

January Session, 2013

Raised Bill No. 6582

LCO No. 4174



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE RECOMMENDATIONS OF THE
CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO
CERTIFICATES OF REHABILITATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-130a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) Jurisdiction over the granting of, and the authority to grant,
4 commutations of punishment or releases, conditioned or absolute, in
5 the case of any person convicted of any offense against the state and
6 commutations from the penalty of death shall be vested in the Board of
7 Pardons and Paroles.

8 (b) The board shall have authority to grant pardons, conditioned,
9 provisional or absolute, or certificates of rehabilitation for any offense
10 against the state at any time after the imposition and before or after the
11 service of any sentence.

12 (c) The board may accept an application for a pardon three years
13 after an applicant's conviction of a misdemeanor or violation and five

14 years after an applicant's conviction of a felony, except that the board,
15 upon a finding of extraordinary circumstances, may accept an
16 application for a pardon prior to such dates.

17 (d) Whenever the board grants an absolute pardon to any person,
18 the board shall cause notification of such pardon to be made in writing
19 to the clerk of the court in which such person was convicted, or the
20 Office of the Chief Court Administrator if such person was convicted
21 in the Court of Common Pleas, the Circuit Court, a municipal court, or
22 a trial justice court.

23 (e) Whenever the board grants a provisional pardon or a certificate
24 of rehabilitation to any person, the board shall cause notification of
25 such provisional pardon or certificate of rehabilitation to be made in
26 writing to the clerk of the court in which such person was convicted.
27 The granting of a provisional pardon or a certificate of rehabilitation
28 does not entitle such person to erasure of the record of the conviction
29 of the offense or relieve such person from disclosing the existence of
30 such conviction as may be required.

31 (f) In the case of any person convicted of a violation for which a
32 sentence to a term of imprisonment may be imposed, the board shall
33 have authority to grant a pardon, conditioned, provisional or absolute,
34 or a certificate of rehabilitation, in the same manner as in the case of
35 any person convicted of an offense against the state.

36 Sec. 2. Section 54-130e of the general statutes is repealed and the
37 following is substituted in lieu thereof (*Effective October 1, 2013*):

38 (a) For the purposes of this section and sections 31-51i, as amended
39 by this act, 46a-80, as amended by this act, [and] 54-130a, as amended
40 by this act, and sections 3 and 4 of this act:

41 (1) "Barrier" means a denial of employment or a license based on an
42 eligible offender's conviction of a crime without due consideration of
43 whether the nature of the crime bears a direct relationship to such

44 employment or license;

45 (2) "Direct relationship" means that the nature of criminal conduct
46 for which a person was convicted has a direct bearing on the person's
47 fitness or ability to perform one or more of the duties or
48 responsibilities necessarily related to the applicable employment or
49 license;

50 (3) "Certificate of rehabilitation" or "certificate" means a form of
51 relief from barriers or forfeitures to employment or the issuance of
52 licenses, other than a provisional pardon, that is granted to an eligible
53 offender by (A) the Board of Pardons and Paroles pursuant to this
54 section, or (B) the Court Support Services Division of the Judicial
55 Branch pursuant to section 3 of this act;

56 ~~[(2)]~~ (4) "Eligible offender" means a person who has been convicted
57 of a crime or crimes in this state or another jurisdiction and who is a
58 resident of this state and is (A) applying for a provisional pardon or is
59 under the jurisdiction of the Board of Pardons and Paroles, or (B) with
60 respect to a certificate of rehabilitation under section 3 of this act, is
61 under the supervision of the Court Support Services Division of the
62 Judicial Branch;

63 ~~[(3)]~~ (5) "Employment" means any remunerative work, occupation
64 or vocation or any form of vocational training, but does not include
65 employment with a law enforcement agency;

66 ~~[(4)]~~ (6) "Forfeiture" means a disqualification or ineligibility for
67 employment or a license by reason of law based on an eligible
68 offender's conviction of a crime;

69 ~~[(5)]~~ (7) "License" means any license, permit, certificate or
70 registration that is required to be issued by the state or any of its
71 agencies to pursue, practice or engage in an occupation, trade,
72 vocation, profession or business; and

73 [(6)] (8) "Provisional pardon" means a form of relief from barriers or
74 forfeitures to employment or the issuance of licenses granted to an
75 eligible offender by the Board of Pardons and Paroles pursuant to
76 subsections (b) to (i), inclusive, of this section.

77 (b) The Board of Pardons and Paroles may issue a provisional
78 pardon or a certificate of rehabilitation to relieve an eligible offender of
79 barriers or forfeitures by reason of such person's conviction of the
80 crime or crimes specified in such provisional pardon or certificate of
81 rehabilitation. Such provisional pardon or certificate of rehabilitation
82 may be limited to one or more enumerated barriers or forfeitures or
83 may relieve the eligible offender of all barriers and forfeitures. Such
84 certificate shall be labeled by the issuing board as a "Certificate of
85 Employability" or a "Certificate of Suitability of Licensure", or both, as
86 deemed appropriate by the issuing board. No provisional pardon or
87 certificate of rehabilitation shall apply or be construed to apply to the
88 right of such person to retain or be eligible for public office.

89 (c) The Board of Pardons and Paroles may, in its discretion, issue a
90 provisional pardon or a certificate of rehabilitation to an eligible
91 offender upon verified application of such [person] eligible offender.
92 The board may issue a provisional pardon or a certificate of
93 rehabilitation at any time after the sentencing of an eligible offender,
94 including, but not limited to, any time prior to the eligible offender's
95 date of release from the custody of the Commissioner of Correction,
96 probation or parole. Such provisional pardon or certificate of
97 rehabilitation may be issued by a pardon panel of the board or a parole
98 release panel of the board.

99 (d) The board shall not issue a provisional pardon or a certificate of
100 rehabilitation unless the board is satisfied that:

101 (1) The person to whom the provisional pardon or the certificate of
102 rehabilitation is to be issued is an eligible offender;

103 (2) The relief to be granted by the provisional pardon or the

104 certificate of rehabilitation may promote the public policy of
105 rehabilitation of ex-offenders through employment; and

106 (3) The relief to be granted by the provisional pardon or the
107 certificate of rehabilitation is consistent with the public interest in
108 public safety, the safety of any victim of the offense and the protection
109 of property.

110 (e) In accordance with the provisions of subsection (d) of this
111 section, the board may limit the applicability of the provisional pardon
112 or the certificate of rehabilitation to specified types of employment or
113 [licenses] licensure for which the eligible offender is otherwise
114 qualified.

115 (f) The board may, for the purpose of determining whether such
116 provisional pardon or certificate of rehabilitation should be issued,
117 request its staff to conduct an investigation of the applicant and submit
118 to the board a report of the investigation. Any written report
119 submitted to the board pursuant to this subsection shall be confidential
120 and shall not be disclosed except to the applicant and where required
121 or permitted by any provision of the general statutes or upon specific
122 authorization of the board.

123 (g) If a provisional pardon or a certificate of rehabilitation is issued
124 by the board [while an eligible offender is on probation or parole,]
125 pursuant to this section before an eligible offender has completed
126 service of the offender's term of incarceration, probation or parole, or
127 any combination thereof, the provisional pardon or the certificate of
128 rehabilitation shall be deemed to be temporary until the [person]
129 eligible offender completes such [person's period of] eligible offender's
130 term of incarceration, probation or parole. During the period that such
131 provisional pardon or certificate of rehabilitation is temporary, the
132 board may revoke such provisional pardon or certificate of
133 rehabilitation for a violation of the conditions of such [person's]
134 eligible offender's probation or parole. After the eligible offender

135 completes such eligible offender's term of incarceration, probation or
136 parole, the temporary provisional pardon or certificate of rehabilitation
137 shall become permanent.

138 (h) The board may at any time issue a new provisional pardon or
139 certificate of rehabilitation to enlarge the relief previously granted, and
140 the provisions of subsections (b) to (f), inclusive, of this section shall
141 apply to the issuance of any new provisional pardon or certificate of
142 rehabilitation.

143 (i) The application for a provisional pardon or a certificate of
144 rehabilitation, the report of an investigation conducted pursuant to
145 subsection (f) of this section, the provisional pardon or the certificate of
146 rehabilitation and the revocation of a provisional pardon or a
147 certificate of rehabilitation shall be in such form and contain such
148 information as the Board of Pardons and Paroles shall prescribe.

149 (j) If a temporary certificate issued under this section or section 3 of
150 this act is revoked, barriers and forfeitures thereby relieved shall be
151 reinstated as of the date the person to whom the certificate was issued
152 receives written notice of the revocation. Any such person shall
153 surrender the certificate to the issuing board or division upon receipt
154 of the notice.

155 (k) Not later than October 1, 2014, the board shall submit to the
156 Office of Policy and Management, in such form as the office may
157 prescribe, data on the number of applications received for provisional
158 pardons and certificates of rehabilitation, the number of applications
159 denied, the number of applications granted and the number of
160 provisional pardons and certificates of rehabilitation revoked. The
161 board shall submit such report annually thereafter.

162 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) The Court Support
163 Services Division of the Judicial Branch may issue a certificate of
164 rehabilitation to an eligible offender who is under the supervision of
165 the division while on parole or other supervised release, or may issue a

166 new certificate of rehabilitation to enlarge the relief previously granted
167 under such certificate or revoke any such certificate in accordance with
168 the provisions of section 54-130e of the general statutes, as amended by
169 this act, that are applicable to certificates of rehabilitation. If the
170 division issues, enlarges the relief previously granted or revokes a
171 certificate of rehabilitation under this section, the division shall
172 immediately file written notice of such action with the Board of
173 Pardons and Paroles.

174 (b) Not later than October 1, 2014, the Court Support Services
175 Division shall submit to the Office of Policy and Management, in such
176 form as the office may prescribe, data regarding the administration of
177 certificates of rehabilitation, which shall include data on the number of
178 certificates issued or revoked by the division. The division shall submit
179 such report annually thereafter.

180 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) Not later than January 1,
181 2015, the Connecticut Sentencing Commission shall post data on its
182 Internet web site that the commission received from the Board of
183 Pardons and Paroles pursuant to subsection (k) of section 54-130e of
184 the general statutes, as amended by this act, and the Court Support
185 Services Division of the Judicial Branch pursuant to section 3 of this
186 act, and shall update such data on its Internet web site annually
187 thereafter.

188 (b) The Connecticut Sentencing Commission, or its designee, shall
189 evaluate the effectiveness of provisional pardons and certificates of
190 rehabilitation issued pursuant to section 54-130e of the general
191 statutes, as amended by this act, and certificates of rehabilitation
192 issued pursuant to section 3 of this act, at promoting the public policy
193 of rehabilitating ex-offenders consistent with the public interest in
194 public safety, the safety of crime victims and the protection of
195 property. Such evaluation shall continue for a period of three years
196 from October 1, 2014. The commission shall report to the joint standing
197 committee of the General Assembly having cognizance of matters

198 relating to the judiciary not later than January 15, 2015, January 15,
199 2016, and January 15, 2017, on the effectiveness of such provisional
200 pardons and certificates at promoting such public policy and public
201 interest. Such report shall include recommendations, if any, for
202 amendments to the general statutes governing such provisional
203 pardons and certificates in order to promote such public policy and
204 public interest.

205 Sec. 5. Subsections (d) and (e) of section 31-51i of the general
206 statutes are repealed and the following is substituted in lieu thereof
207 (*Effective October 1, 2013*):

208 (d) No employer or an employer's agent, representative or designee
209 shall deny employment to a prospective employee solely on the basis
210 that the prospective employee had a prior arrest, criminal charge or
211 conviction, the records of which have been erased pursuant to section
212 46b-146, 54-76o or 54-142a or that the prospective employee had a prior
213 conviction for which the prospective employee has received a
214 provisional pardon or certificate of rehabilitation pursuant to section
215 54-130a, as amended by this act, or a certificate of rehabilitation
216 pursuant to section 3 of this act.

217 (e) No employer or an employer's agent, representative or designee
218 shall discharge, or cause to be discharged, or in any manner
219 discriminate against, any employee solely on the basis that the
220 employee had, prior to being employed by such employer, an arrest,
221 criminal charge or conviction, the records of which have been erased
222 pursuant to section 46b-146, 54-76o or 54-142a or that the employee
223 had, prior to being employed by such employer, a prior conviction for
224 which the employee has received a provisional pardon or certificate of
225 rehabilitation pursuant to section 54-130a, as amended by this act, or a
226 certificate of rehabilitation pursuant to section 3 of this act.

227 Sec. 6. Subsection (c) of section 46a-80 of the general statutes is
228 repealed and the following is substituted in lieu thereof (*Effective*

229 *October 1, 2013*):

230 (c) A person may be denied employment by the state or any of its
231 agencies, or a person may be denied a license, permit, certificate or
232 registration to pursue, practice or engage in an occupation, trade,
233 vocation, profession or business by reason of the prior conviction of a
234 crime if after considering (1) the nature of the crime and its
235 relationship to the job for which the person has applied; (2)
236 information pertaining to the degree of rehabilitation of the convicted
237 person; and (3) the time elapsed since the conviction or release, the
238 state, or any of its agencies determines that the applicant is not suitable
239 for the position of employment sought or the specific occupation,
240 trade, vocation, profession or business for which the license, permit,
241 certificate or registration is sought. In making a determination under
242 this subsection, the state or any of its agencies shall give consideration
243 to a provisional pardon issued pursuant to section 54-130e, as
244 amended by this act, or a certificate of rehabilitation issued pursuant to
245 section 54-130e, as amended by this act, or section 3 of this act, and
246 such provisional pardon or certificate of rehabilitation shall establish a
247 presumption that such applicant has been rehabilitated. If an
248 application is denied based on a conviction for which the applicant has
249 received a provisional pardon or certificate of rehabilitation, the state
250 or any of its agencies, as the case may be, shall provide a written
251 statement to the applicant of its reasons for such denial.

252 Sec. 7. (NEW) (*Effective October 1, 2013*) There shall be a rebuttable
253 presumption against admission of evidence of the prior conviction of
254 an applicant or employee in an action alleging that an employer has
255 been negligent in hiring or retaining an applicant or employee, or in
256 supervising the employer's agent, representative or designee with
257 respect to hiring or retaining an applicant or employee, if the applicant
258 or employee held a valid provisional pardon or certificate of
259 rehabilitation at the time such alleged violation occurred and a party
260 establishes, by a preponderance of the evidence, that the employer
261 knew that the applicant or employee held a valid provisional pardon

262 or certificate of rehabilitation at the time such alleged violation
 263 occurred. For the purposes of this section, "employer" has the same
 264 meaning as provided in section 31-51i of the general statutes, as
 265 amended by this act.

266 Sec. 8. Subsection (d) of section 54-124a of the general statutes is
 267 repealed and the following is substituted in lieu thereof (*Effective*
 268 *October 1, 2013*):

269 (d) The chairperson shall be the executive and administrative head
 270 of said board and shall have the authority and responsibility for (1)
 271 overseeing all administrative affairs of the board, (2) assigning
 272 members to panels, (3) establishing procedural rules for members to
 273 follow when conducting hearings, reviewing recommendations made
 274 by employees of the board and making decisions, (4) adopting policies
 275 in all areas of pardons and paroles including, but not limited to,
 276 granting pardons, commutations of punishments or releases,
 277 conditioned or absolute, in the case of any person convicted of any
 278 offense against the state and commutations from the penalty of death,
 279 risk-based structured decision making and release criteria, (5)
 280 consulting with the Department of Correction on shared issues
 281 including, but not limited to, prison overcrowding, (6) consulting with
 282 the Judicial [Department] Branch on shared issues of community
 283 supervision, and (7) signing and issuing subpoenas to compel the
 284 attendance and testimony of witnesses at parole proceedings. Any
 285 such subpoena shall be enforceable to the same extent as subpoenas
 286 issued pursuant to section 52-143.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	54-130a
Sec. 2	<i>October 1, 2013</i>	54-130e
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	31-51i(d) and (e)

Sec. 6	<i>October 1, 2013</i>	46a-80(c)
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	54-124a(d)

Statement of Purpose:

To enact the recommendations of the Connecticut Sentencing Commission with respect to certificates of rehabilitation in order to provide eligible offenders with relief from barriers to employment and licensure.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]